IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NOs.26567 OF 2003 & 4175 OF 2004

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W.P. No: 26567 of 2003

Between:

1 Govt., of A.P., Rep. by the Principal Secretary, Revenue

Department, Hyderabad.
2 Commissioner of Survey Settlements and Land Records,

A.P.,Hyderabad.
3 Assistant Director, Survey and Land Records, Guntur.
4 District Collector, Guntur.

..... PETITIONERS

AND

B.Venugopal, Unemployee, H.No.10-60-17/1, Indira Nagar

Colony,Tenali, Guntur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or proceedings more particularly one in the nature of writ of certiorari calling for the records pertaining to the order passed in O.A.No.1113/96 on the file of Hon'ble A.P.A.T. Hyderabad dt.22.7.2003 and quash the same as illegal and arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: MR.B.CHINNAPA REDDY

W.P. No: 4175 of 2004

Between:

1 The Secretary to Government, Department of Survey and

Land Records, Secretariat Buildings, Hyderabad.
2 The Commissioner of Survey and Land Records,

Hyderabad.
3 The Assistant Director, District and Survey and Land

Records, Kadapa District.

..... PETITIONERS

AND

U.Lakshmi Narayana, S/o. Subbanna,
R/o. Chilamakur (V), Kadapa District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature writ of certiorari and calling for the records relating to the order passed in O.A.No.3713/1996 with M.A.No.655/1997 dated 21-7-2003 on the file of Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: MR.V.MALLIK

The Court made the following:

COMMON ORAL ORDER:- **(PER GB,J)**

Both the Writ Petitions can be decided by a common order. But, however, it is necessary to decide Writ Petition No.4175 of 2004 before considering the facts in other case.

2. The respondent-U. Lakshmi Narayana filed O.A.No.3713 of 1996 challenging his non-selection to the post of Deputy Surveyor-cum-Computer Draughtsman.

3. It is the contention of the petitioner before the Tribunal that selection process adopted by the 3rd respondent was not correct and only the marks obtained by the candidate in NCVT examination has to be take into consideration and not the marks obtained in SSC examination.

4. The Tribunal after considering the matter held that the authorities have to take into consideration only the marks obtained in NCVT and not the SSC marks. Aggrieved by the said order, the Writ Petition No.4175 of 2004 has been filed.

5. Learned Government Pleader submits that the procedure of taking the marks from SSC examination as well as NCVT examination has been in existence for the last several years and even till today the same procedure is being followed. It is only to assess the merit of the candidates, both in the SSC examination as well as in the NCVT examination, such a procedure has been adopted and there is nothing irregular or illegal in taking the examination. But, however, the Tribunal erroneously held that only the marks obtained in the NCVT examination shall be taken into consideration and the said finding is illegal and contrary to law.

6. Even on merits, the learned counsel would submit that the respondent secured only 382 marks, whereas, the candidate selected in the O.C. category secured 447 marks and the candidate in B.C-B category secured 403 marks. Therefore, it is not a fit case for consideration.

7. We have heard the learned counsel for the parties.

8. The procedure for selecting the candidates is at the discretion of the selecting authorities. The merit has to be assessed by a reasonable method. In the instant case, the practice of the authorities is to assess the merit of the candidates both in the SSC as well as NCVT examinations. Therefore, they have taken the marks, obtained in both the examinations, into consideration by which process the overall merit can be assessed and on that basis the candidates would be selected. Under those circumstances, we do not find any irregularity in such procedure.

9. The Tribunal held that the marks in SSC examination need not be taken into consideration, but, however, we find no reason for coming to such a conclusion in the absence of any statutory Rules with regard to the selection of the candidates. Therefore we are not in a position to agree with the finding of the Tribunal where it has been found that only the marks in NCVT examination have to be taken into consideration. Under those circumstances, the order of the Tribunal is set aside and the Writ Petition is allowed. No costs.

10. Coming to the next Writ Petition i.e.,W.P.No.26567 of 2003, the recruitment relates to 1995. It is the case of the petitioner that the Tribunal following the decision in O.A.No.3713 of 1996, disposed of the O.A.No.1113 of 1996 with the directions.

11. Since we have already set aside the order of the Tribunal, the Writ Petition has to be allowed. But however, the learned counsel for the respondent contented that the O.C. Candidate secured 462 marks and BC-B candidate secured 464 marks, whereas the respondent secured 452 marks. In such an event, BC-B candidate should have been given the slot in O.C. category as the candidate who got 462 marks was appointed. Under those circumstances, the learned counsel would submit that on the error apparent on the face of it, the illegality has been committed and the order of the Tribunal cannot be found fault with. We are unable to accept this contention.

12. The Tribunal has only concentrated on the procedure adopted by the authorities but it did not go into the contention as to whether B.C-B candidates who secured marks more than the O.C. candidates should have been sent to O.C. slot or not. Further the respondent cannot also succeed, as the other person who would be deprived of such post has not been made a party.

13. Under those circumstances, we are of the view that the order of the Tribunal is not sustainable and the same is set aside. Accordingly, the Writ Petition is allowed. No costs.

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G. BIKSHAPATHY, J.

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P.S. NARAYANA, J.

Date: 17-01-2005

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To

1 The Principal Secretary, Govt., of A.P., Revenue

Department, Hyderabad.

2 The Secretary to Government, Department of Survey and

Land Records, Secretariat Buildings, Hyderabad.

3 The Commissioner of Survey and Land Records,

Hyderabad.

4 The Assistant Director, District and Survey and Land

Records, Kadapa District.

5 The District Collector, Guntur.

6 2 CCs to the G.P for Services II, High Court Buildings,

Hyderbad. (OUT)

7 2 CD copies.